



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,264	04/24/2000	Glen Kazumi Okita	02365.P0015	8596

21186 7590 01/25/2006

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS, MN 55402

EXAMINER

CUNNINGHAM, GREGORY F

ART UNIT PAPER NUMBER

2676

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/557,264

Applicant(s)

OKITA ET AL.

Examiner

Gregory F. Cunningham

Art Unit

2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ✓ 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ✓ 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/23/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to communications of application received 11/23/2005.
2. Clarification is given for prior office action that Office Action Summary indicate check mark for box 2a), not box 3). Whereby Office Action was a final action as correctly presumed by the Applicant and not in condition for allowance, nor formal matters, nor prosecution as to the merits closed.
3. The disposition of the claims is as follows: claims 27 - 33 are pending in the application. Claim 27 is the only independent claim. Claims 1-26 have been cancelled. Claims 34-46 have been withdrawn.

This application contains claim 34-46 drawn to an invention nonelected without traverse in Paper dated 8/19/2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

4. While the Applicants, at this time, only reserve the right to "swear behind" reference Hoyer et al. as provided for under 37 C.F.R. 1.131, the U.S. Patent Office cannot offer compact and expedited prosecution without Applicants providing clear and timely knowledge of the earliest date for the invention of the claimed subject matter via 37 C.F.R. 1.131. To delay by merely reserving the right to swear behind via 37 C.F.R. 1.131 would just protract and expand the prosecution and expense to the Applicants.
5. When making claim amendments, the applicant is encouraged to consider the references in their entireties, including those portions that have not been cited by the examiner and their

Art Unit: 2676

equivalents as they may most broadly and appropriately apply to any particular anticipated claim amendments.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 27-33 are rejected under 35 U.S.C. 102(e) as being disclosed by Hoyer et al., (US Patent 6,243,105 B1).

A. Claim 27, “A method of displaying information relating to a workflow driven by a computer system comprising:

executing the workflow [col. 3, lns. 22-31; lns. 39-47], the workflow implementing business rules and associated with transactions of a call center [col. 9, lns. 23-28];

calculating execution statistics relating to the execution of the workflow on the computer system [col. 3, lns. 22-31; col. 7, lns. 42-60; col. 9, lns. 40-46];

displaying a workflow diagram on a display screen associated with the computer system [see Fig. 8]; and

displaying a the execution statistics [col. 7, lns. 57-60: see Figs. 7 & 8] on the workflow diagram in real time [col. 11, lns. 23-32], wherein the execution statistics are for various steps displayed in the workflow diagram [col. 3, lns. 21-47; col. 18, lns. 16-26], and wherein the

Art Unit: 2676

execution statistics are selectively displayed by positioning a pointer over the display [col. 18, lns. 37-48]” is disclosed [as detailed].

(Examiner’s note: Both “the execution statistics” and “positioning a pointer over the display” is very broad, whereby pointer can be positioned anywhere on the display and “execution statistics” can relate to any kind of execution statistics.)

B. Claim 28, “The method of claim 27, wherein displaying the execution statistics further includes displaying the execution statistics as one or more tables that overlay each of the steps [See Fig. 8, wherein ‘Recorded Cluster Data’ and Fig. 7 both correspond to “table”]” is disclosed supra for claim 27 and [as detailed].

C. Claim 29, “The method of claim 28, wherein displaying the execution statistics further includes displaying within the one or more tables as at least one of total execution times for each of the steps and as numbers of executions preformed for each of the steps [wherein Duration corresponds to “total execution time” and ‘Hit Rate’ corresponds to “numbers of executions preformed for each of the steps” and/or col. 8, lns. 37-42]” is disclosed supra for claim 28 and [as detailed].

D. Claim 30, “The method of claim 27, wherein displaying the execution statistics further includes displaying a number of the statistics in at least one of a numbered format and a percentage format [col. 7, lns. 44-60]” is disclosed supra for claim 27 and [as detailed].

E. Claim 31, “The method of claim 27, wherein displaying the execution statistics further includes presenting a number of the steps in a distinguishing color, wherein the distinguishing color is associated with select ones of the statistics [See Figs. 7 and 8, wherein the color happens to be black on white background]” is disclosed supra for claim 27 and [as detailed].

Art Unit: 2676

F. Claim 32, “The method of claim 27, wherein displaying the execution statistics further includes identifying the statistics in response to a profile [wherein the URL corresponds to a profile]” is disclosed supra for claim 27 and [as detailed].

G. Claim 33, “The method of claim 27, wherein calculating further includes obtaining metrics to calculate the execution statistics from a database query in response to an identifier associated with the workflow [col. 2, lns. 40-45” wherein ‘vertical white line’s position on the time-line scale’ corresponds to “metrics” for calculation]” is disclosed supra for claim 27 and [as detailed].

8. Claims 27-33 are rejected under 35 U.S.C. 102(e) as being disclosed by Hull et al., (US Pub. No.: 2003/0115545 A1), hereinafter Hull.

A. Claim 27, “A method of displaying information relating to a workflow driven by a computer system comprising:

executing the workflow [para. 0053 - 0056], the workflow implementing business rules and associated with transactions of a call center [para. 0057 – 0060, 0227, 0397];

calculating execution statistics relating to the execution of the workflow on the computer system [para. 0061 – 0068, 0397];

displaying a workflow diagram on a display screen associated with the computer system [para. 0050, 0053, 0204, 0227, 0294, 0397, 0401, 0425 – 0434, 0437 – 0438, 0444]; and

displaying the execution statistics on the workflow diagram in real time [para. 0050], wherein the execution statistics are for various steps displayed in the workflow diagram [para. 0050, 0053, 0204, 0227, 0294, 0397, 0401, 0425 – 0434, 0437 – 0438, 0444], and wherein the

Art Unit: 2676

execution statistics are selectively displayed by positioning a pointer over the display [para. 0007, 0443, 0448]” is disclosed [as detailed].

B. Claim 28, “The method of claim 27, wherein displaying the execution statistics further includes displaying the execution statistics as one or more tables that overlay each of the steps [para. 0008, 0426]” is disclosed supra for claim 27 and [as detailed].

C. Claim 29, “The method of claim 28, wherein displaying the execution statistics further includes displaying within the one or more tables as at least one of total execution times for each of the steps and as numbers of executions preformed for each of the steps [para. 0227, 0302, 0304, 0441, 0446, wherein runtime corresponds to execution time]” is disclosed supra for claim 28 and [as detailed].

D. Claim 30, “The method of claim 27, wherein displaying the execution statistics further includes displaying a number of the statistics in at least one of a numbered format and a percentage format [para. 0446]” is disclosed supra for claim 27 and [as detailed].

E. Claim 31, “The method of claim 27, wherein displaying the execution statistics further includes presenting a number of the steps in a distinguishing color, wherein the distinguishing color is associated with select ones of the statistics [para. 0446]” is disclosed supra for claim 27 and [as detailed].

F. Claim 32, “The method of claim 27, wherein displaying the execution statistics further includes identifying the statistics in response to a profile [para. 0003, 0004, 0058 – 0078, 0091 – 0093, wherein attributes correspond to profile]” is disclosed supra for claim 27 and [as detailed].

G. Claim 33, “The method of claim 27, wherein calculating further includes obtaining metrics to calculate the execution statistics from a database query in response to an identifier

Art Unit: 2676

associated with the workflow [para.0052, 0054, 0060, 0070 – 0071, 0073, 0075, 0176 - 0177]” is disclosed supra for claim 27 and [as detailed].

Response to Arguments

9. Applicant's arguments filed 11/23/2005 have been fully considered but they are not persuasive.

Claims 27-33 are read in view of their broadest interpretation. For example claim 27, recites preamble “a method of displaying information relating to a workflow driven by a computer system comprising” and then lists four elements separated by semicolons. Each of the four elements contribute to be part of a comprising for said preamble, but do not all provide further limitation as an interaction between the various four elements. For example the four elements do not necessarily speak to the same workflow, as would “said workflow”.

Furthermore exemplified by claim 27, although the four elements are presented one after another, claim 27 makes no mention of a preferred order, steps, configuration or arrangement of the four elements with respect to one another. So while it may appear that the prior art reference discloses all the claimed elements in isolation, it is merely because the claimed elements as broadly interpreted, allow for such isolation.

With regard to the disclosure must be the identical invention and must be shown in as complete detail as is contained in the claim: See MPEP 2186 Relationship to the Doctrine of Equivalents

The doctrine of equivalents arises in the context of an infringement action. If an accused product or process does not literally infringe a patented invention, the accused product or process

Art Unit: 2676

may be found to infringe under the doctrine of equivalents. The essential objective inquiry is: “Does the accused product or process contain elements identical or equivalent to each claimed element of the patented invention?” *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 117 S. Ct. 1040, 41 USPQ2d 1865, 1875 (1997). In determining equivalence, “[a]n analysis of the role played by each element in the context of the specific patent claim will thus inform the inquiry as to whether a substitute element matches the function, way, and result of the claimed element, or whether the substitute plays a role substantially different from the claimed element.” 41 USPQ2d at 1875.

35 U.S.C. 112, sixth paragraph, permits “means or step plus function” limitations in claims to combinations, “with the proviso that application of the broad literal language of such claims must be limited to only those means that are equivalent’ to the actual means shown in the patent specification. This is an application of the doctrine of equivalents in a restrictive role, narrowing the application of broad literal claim elements.” 41 USPQ2d at 1870. Accordingly, decisions involving the doctrine of equivalents should be considered, but should not unduly influence a determination under 35 U.S.C. 112, sixth paragraph, during *ex parte* examination.

With regard to the Applicant’s specification and in response to applicant’s argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., “workflow” is intended to mean a sequence of steps that are performed to, at least partially, process a transaction) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Even incorporating the contents of the specification: “a sequence of steps that are

Art Unit: 2676

performed to, **at least partially**, process a transaction” does not presume a minimum of what constitutes to at least partially process a transaction. Hoyer et al. disclose a performance monitor to allow an administrator to monitor the real-time and historical performance of a web site to track different types of measurements such as hit rate and response time. The hit rate measurement inherently shows the performance data of the web site as to the number of online web site visitors, which corresponds to a transaction, if not at least partially, whereby there is an exchange of information (the visitor receives web site information and the web site receives a hit count, i.e. transaction, **at least partially**).

To merely state that Hoyer et al. (col. 9, lns. 23-28) clearly fails to disclose the element of claim 27 referencing “call center”, is insufficient. Although the various attributes of an example of a call center site is illustrated in Figs. 2 and 3, still the claims are interpreted in light of the specification, but limitations from the specification are not read into the claims. Even still, various aspects of the exemplified call center relationships are event subsystems, email, web, agent, telephony, video, IVR and CTI. Hoyer et al. (col. 9, lns. 23-28) corresponds at least to call center “event subsystems”.

Figs. 7 and 8 show a workflow diagramming the relationship of hits per second over time (seconds), fig. 7 for real-time and also displays workflow diagram of hts/sec as shown in figs. 7 for a particular host/server.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., For the purposes of this description, the term "workflow" is intended to mean a sequence of steps that are performed to, at least partially, process a transaction. In other words, "workflow" is intended to

Art Unit: 2676

designate a form of business rule processing) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's arguments with respect to claims 27-33 have been considered but are also moot in view of the additional new ground(s) of rejection, Hull et al., (US Pub. No.: 2003/0115545 A1).

Citation of Pertinent Prior Art

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- A. Enterprise application integration – message broker style,
<http://sunsite.uakom.sk/sunworldonline/swol-08-itarchitect.htm>
- B. Experience with Software Process Simulation and Modeling,
<http://www.usc.edu/dept/ATRIUM/Papers/JSS98/JSS98.html>
- C. CETI Operations and Support Plan,
<http://www.csufresno.edu/ait/ceti/tech/ops1210.html>
- D. A Mitem View Customer Reference,
<http://www.mitem.com/resources/caseStudies/pdfs/norwest.pdf>
- E. Competing for the Future with Intelligent Agents,
http://home1.gte.net/pfingar/agents_doc_rev4.htm
- F. Intelligent Agents: The Key to Open eCommerce,
<http://home1.gte.net/pfingar/csAPR99.html>

Art Unit: 2676

Responses


11. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Inquiries

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory F. Cunningham whose telephone number is (571) 272-7784.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (571) 272-7778. The Central FAX Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gregory F. Cunningham
Examiner
Art Unit 2676

gfc

1/17/2006


MATTHEW C. BELLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600